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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------|-------------|----------------------|---------------------|------------------|
| 10/645,294 | 08/21/2003 | Tokio Tanaka | NIS-14976 | 7201 |
| 40854 | 7590 | 08/19/2004 | EXAMINER | |
| RANKIN, HILL, PORTER & CLARK LLP | | | LAYNO, BENJAMIN | |
| 4080 ERIE STREET | | | ART UNIT | |
| WILLOUGHBY, OH 44094-7836 | | | PAPER NUMBER | |

3712

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/645,294

Applicant(s)

TANAKA, TOKIO

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 081704.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Braunlich et al.

The patent to Braunlich et al. discloses a card game for two or more players comprising at least two decks of cards 20, one for each player. Each deck comprises a plurality of cards 22 including a plurality of battle cards 100, a plurality of effect indication cards 200, and a plurality of cost payment cards 300. The battle cards 100 each having at least one attack power and defense power 112 indicated thereon. The battle cards also have an indication of additional attack power 110, col. 9, lines 17-30. The battle cards also have a symbol 114 thereon indicating the cost required to place

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the battle card on a play field, col. 7, line 66 to col. 8, line 2. The cost payment cards 300 have a symbol 304 thereon indicating that each card belongs to one of a plurality of category groups. The cost payment cards also have a description 306 thereon indicating effect to be brought into play. The effect indication cards have effect 206 indicated thereon that is brought into play when used.

In regard to the claimed "that is executed provided that said cost payment is fulfilled" in claims 1, 6, and 9, this statement is considered a **game rule**. Furthermore, the claimed "by fulfilling said cost payment" in claims 5, 8 and 13, the claimed "wherein one winning condition is defined.....value of points of said opposing player" in claim 9, lines 18-26, and all of claim 12, lines 1-9, are **all considered game rules**. In game apparatus claims, only the claimed elements having physical structure, (e.g. a plurality of battle cards, a plurality of effect indication cards, a plurality of cost payment cards, symbol indicating attack power, symbol indicating card belongs to one of a plurality of category groups, etc.) are given patentable weight. Game rules, (e.g. "winning condition is defined to reduce opposing player's points...", "additional attack power....that is executed provided that said cost payment is fulfilled", etc.) however, have no physical structure per se. Thus, game rules have no limiting affect in game apparatus claims.

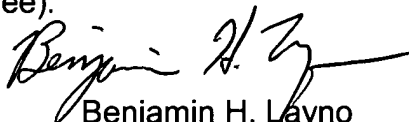
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent application publications to Bramucci, Figs. 2-4 and Imhof disclose collectible or trading card games.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Benjamin H. Layno
Primary Examiner
Art Unit 3712

bhl